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9 SPECIAL MASTERS

10  
11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA

13  
14 IN RE: TOYOTA MOTOR CORP.  
15 UNINTENDED ACCELERATION  
16 MARKETING, SALES PRACTICES, AND  
17 PRODUCTS LIABILITY LITIGATION

18 This document relates to:  
ALL CASES

19 Case No: 8:10 ML 02151 JVS(FMOx)

20 **DISCOVERY MATTER**

21 **RULINGS RE: (1) PLAINTIFFS'  
MOTION TO COMPEL *IN  
CAMERA* REVIEW OF  
DOCUMENTS THAT TOYOTA IS  
WITHHOLDING ON THE BASIS  
OF ALLEGED PRIVILEGE OR  
WORK PRODUCT PROTECTION,  
AND (2) DEPOSITIONS OF  
TOYOTA ENTITIES AND THEIR  
EMPLOYEES**

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24 Hearing Date: February 1, 2012  
25 Time: 10:00 a.m.  
26 Location: JAMS, 500 N. State College  
27 Blvd., 14<sup>th</sup> Floor, Orange, CA 92868

**I. PLAINTIFFS' FIRST MOTION TO COMPEL IN CAMERA REVIEW OF DOCUMENTS THAT TOYOTA IS WITHHOLDING ON THE BASIS OF ALLEGED PRIVILEGE OR WORK PRODUCT PROTECTION**

Plaintiffs filed their First Motion to Compel *in camera* review of Documents that Toyota is Withholding on the Basis of Alleged Privilege or Work Product Protection on December 30, 2011 (Docket No. 2098). Defendants filed their Points and Authorities in Opposition and related documents on January 20, 2012 (Docket No.2153). Plaintiffs filed their Reply on February 3, 2012 (Docket No. 2201). (Lodged with Special Masters on January 27, 2012.)

A hearing was held on this motion on February 1, 2012 at JAMS, Orange County.

## **FINDINGS AND ORDER**

On or before Tuesday, February 7, 2012 plaintiffs shall identify 50 documents from each of the three categories set forth in their motion (150 total), and shall submit to defendants a list of the 150 documents including the Bates number for each document.

Between February 7 and February 24, the parties shall “meet and confer” and attempt to reduce the number of documents that need to be reviewed by the Special Masters.

On or before Friday, February 24, 2012, defendants shall provide to the Special Masters unredacted copies of all documents that the Special Masters are to review *in camera*.

Thereafter, the Special Masters will: (1) review the remaining documents *in camera*; (2) consult with defense counsel telephonically with any questions they may have, and (3) issue a ruling.

## **II. PLAINTIFFS' MOTION RE DEPOSITIONS OF TOYOTA ENTITIES AND THEIR EMPLOYEES**

Plaintiffs filed their Motion re Depositions of Toyota Entities and their Employees on January 23, 2012 (Docket No. 2155). Defendants filed their Response Brief on January 30, 2012 (Docket No. 2188). Defendants filed a Supplemental Response Brief on February 9, 2012 (Docket No. 2212).

A hearing on this motion was held at JAMS, Orange County, on February 1, 2012. Thereafter, on February 8, 2012 a telephonic conference call was held on this motion, at the conclusion of which the motion was submitted.

## FINDINGS AND ORDER

The Special Masters recognize and appreciate the efforts of defendants' counsel in cooperating with plaintiffs' counsel to schedule a great number of depositions in California.

Plaintiffs agree that the deposition of Taiichi Meguro, whose wife is ill, will be taken in Japan.

The Special Masters find that Hisako Jitsumori is not a managing agent and her deposition should also be taken in Japan.

Defendants have also made preliminary arrangements for the taking of depositions at the U.S. consulate in Osaka during the week of April 16, 2012. The Special Masters

1 rule that the depositions of Taiichi Meguro and Hisako Jitsumori be taken in Japan during  
2 this week in April, 2012.

3 The Special Masters find that plaintiffs have met their preliminary burden to show  
4 that Makoto Kimijima, Koji Sakakibara and Kazutoshi Kunishima are managing agents  
5 of the Toyota defendants for purposes of taking their depositions in this litigation in  
6 California. This is a "close call" as described in the published cases.

7 When weighing the various issues presented by this motion regarding the location  
8 for deposing the remaining three deponents (Makoto Kimijima, Koji Sakakibara and  
9 Kazutoshi Kunishima), the Special Masters feel that the weight of authority supports  
10 taking the depositions in California where the Special Masters are available, authorized,  
11 and able to resolve discovery disputes when they arise. The restrictions by Japanese law  
12 and regulations on depositions taken in Japan are highly onerous, particularly the  
13 inability to involve the Masters in the deposition. The convenience of most individuals  
14 involved in these depositions is also better served, the facilities for computer access,  
15 electronic device function, availability of the Special Masters, cell phone operation, and  
16 photocopy services are also readily available during the depositions.

17 Dated: February 14, 2012



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22 Hon. Steven J. Stone (ret.)  
23 Special Master

24 Dated: February 14, 2012



25 Hon. John K. Trotter (ret.)  
26 Special Master